

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

GRASSROOTS LEADERSHIP,

Plaintiff,

v.

No. 1:19-CV-872-RP

U.S. DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Defendants.

JOINT RULE 26(F) REPORT

Plaintiff Grassroots Leadership brings this action against Defendants U.S. Department of Homeland Security and U.S. Immigration and Customs Enforcement under 5 U.S.C. § 552, the Freedom of Information Act (“FOIA”), to compel the production of certain documents.

Pursuant to Federal Rule of Civil Procedure 26(f), the parties to this action have conferred and submit the following discovery plan.

1. **Initial Disclosures:** The parties do not anticipate the need to exchange initial disclosures under Rule 26(a)(1) in this FOIA case.

2. **Subjects on Which Discovery May Be Needed:** The parties do not anticipate the need for discovery in this FOIA case at this time. Plaintiff reserves the right to seek discovery at a

later time if the parties' negotiations, the Defendants' FOIA production, or any dispositive motion by the Defendants raise factual issues that necessitate discovery.

3. **When Discovery Should Be Completed:**

- a. The parties agree that Defendants will complete their first production of documents responsive to Plaintiff's FOIA request, subject to any applicable FOIA exemptions, by **January 21, 2020** (the "Initial Production"). If this Initial Production deadline cannot be met, the parties will work together in good faith to reach a mutually agreeable resolution.
- b. The parties are continuing to confer to determine an agreeable production schedule for subsequent FOIA productions to follow the Initial Production, as well as a schedule for any briefing and dispositive motions, if necessary. The parties will file a joint notice with the Court outlining a proposed agreed production and briefing schedule by **January 28, 2020**.

4. **Whether Discovery Should Be Phased:** The parties do not anticipate the need for discovery in this FOIA case, subject to the answer to No. 2 above.

5. **Electronically Stored Information:** The parties have agreed to produce all documents in portable document format (pdf) in the first instance. Spreadsheets, if any, will be produced in native format. Defendants agree to apply a Bates stamp to all documents produced in this action.

6. **Claims of Privilege or of Protection:** Defendants will assert applicable FOIA exemptions, privileges, and protections in line with its redactions. Should a protective order become necessary to shield information from public dissemination, the parties will make their best

effort to submit an agreed order to the Court, using the model order from the Local Rules as a primary source.

According to Federal Rule of Evidence 502(d), the parties agree that any inadvertent disclosure or production of document(s) shall not be deemed a waiver of, nor prejudice to, any privilege or immunity with respect to such information or document(s) or of any work product doctrine or other immunity that may attach thereto, including without limitation of the attorney-client privilege, the joint defense privilege, and the work product doctrine (collectively, “Privileged Materials”), and no party will assert such a waiver, provided that the producing party provides written notice (or notice on the record if the producing party becomes aware of the inadvertent or unintentional disclosure at a deposition) to the receiving party promptly after discovery of such inadvertent production. All copies of such Privileged Materials shall be returned to the producing party or destroyed within seven (7) days of notice.

7. **Changes to Limitations on Discovery:** The parties do not anticipate the need for discovery in this FOIA case, subject to the answer to No. 2 above.

8. **Other Orders:** The parties do not anticipate the need for other discovery-related orders at this time.

Respectfully submitted,

JOHN F. BASH
United States Attorney

By: /s/ Liane Noble
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I certify that on December 10, 2019, the parties conferred and agreed on the terms and contents of this report.

/s/ Liane Noble
LIANE NOBLE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that on December 10, 2019, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will send notification to all counsel of record in this case.

/s/ Liane Noble
LIANE NOBLE
Assistant United States Attorney